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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,684	01/21/2004	Li Yick Lap	87905	3338

34440 7590 09/19/2005

COLLEN IP
THE HOLYOKE MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562

EXAMINER

MATZEK, MATTHEW D

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 10-18, drawn to a method of constructing an insulation product, classified in class 156, subclass various.
- II. Claims 1-9, drawn to an insulation product, classified in class 442, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

- 1. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the netting may be attached to the outer or inner shell to form compartments after insulation has been layered on the inner or outer shell.
- 2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 3. During a telephone conversation with Donald Ranft on 9/8/2005 a provisional election was made without traverse to prosecute the invention of an insulation product, claims 1-9.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brun et al. (WO 01/12029, the English translation provided by Applicant is relied upon for this rejection) in view of Thorne (US 6,449,787).

- a. Brun et al. teach a sleeping bag comprising chambers filling material and said chambers are located adjacent to one another and are formed with via partitions [0001]. Said chambers are formed via partitions that traverse the inner and outer linings [0002]. The partitions are sewn to fastening strips (pieces of fabric) and the fastening strips are bonded to the outer shell via welding methods [0006]. The partitions are made of netting and the filling materials include down and synthetic fibers [0009]. The partitions are sewn to the inner lining [0009]. The outer shell is waterproof [0002]. The applied invention is not explicitly taught to be clothing or for use for industrial insulation, however as it meets the structural and compositional limitations set forth in claim 3 it necessarily possesses the limitations required to function in the instantly claimed manner. The applied publication is silent as to attaching the netting being bonded to an adjacent compartment and either the inner or outer shells.
- b. Thorne teaches an adjustable-warmth sleeping bag that comprises an outer shell a plurality of compartments filled with insulative material and an inner shell (Abstract). As

shown in Figure 3 the sleeping bag may be used in a light-insulation configuration with only the outer shell as insulation (col. 2, lines 59-62). This configuration is typically used during warmer weather when less insulation is required. In Figure 6 the outer compartments **14** are filled with insulation, but compartments **18a** and **18b** are only filled with air creating an air blanket within the article.

c. Since Brun et al. and Thorne et al. are from the same field of endeavor (i.e. sleeping bags), the purpose disclosed by Thorne et al. would have been recognized in the pertinent art of Brun et al.

d. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Brun et al. by attaching the netting to the adjacent compartment to enclose the insulating material and create an air blanket between the compartments and inner shell. The skilled artisan would have been motivated by the desire to create a sleeping bag that possesses less thermal insulative ability for use in warmer climates.

Double Patenting

2. Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,754,918. Although the conflicting claims are not identical, they are not patentably distinct from each other because both articles are directed to insulative systems with down, compartmentalized by netting and possessing air-trapping compartments.

Art Unit: 1771

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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